



FOLEY & LARDNER LLP

March 26, 2009

VIA ECF

Magistrate Judge Stephen L. Crocker  
U.S. District Court for the Western District of Wisconsin  
320 U.S. Courthouse  
120 N. Henry Street  
Madison, WI 53703

Re: Neil Gaiman, et al. v. Todd McFarlane, et al.,  
Case No. 02-C-0048-S

Dear Magistrate Judge Crocker:

I am writing to clarify plaintiffs' position regarding the recent filing by defendant Image Comics of a document captioned "Notice of Intervening Changes in Law". In response to a telephone inquiry from the Clerk of Court's office, I indicated that plaintiffs do not believe it is necessary to file a response at this time. However, plaintiffs did not intend to suggest that they are waiving their right to file a written response. Instead, because the proceedings in this case are currently stayed as a result of the bankruptcy of defendant Todd McFarlane Productions, Inc., plaintiffs believe that if a response is necessary, it would be more appropriate and efficient to file it when the bankruptcy stay is lifted and this Court reopens proceedings prior to entry of final judgment.

To clarify the record regarding this matter, plaintiffs respectfully request that the text only order issued today by the court be amended to state: "Upon being contacted by the court, the other parties declined the opportunity to respond to defendant Image Comics' filing at this time, but reserved their right to file a response if this case is reopened for proceedings relating to entry of final judgment."

Sincerely,

s/ Jeffrey A. Simmons

Jeffrey A. Simmons

cc: R. Scott Feldmann (via ECF notification)  
Todd Smith (via ECF notification)  
Michael Kahn (via U.S. Mail)  
Allen Arntsen (via email)  
Ken Levin (via email)

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